

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JUAN ALAMILLO,

Defendant.

No. 10-CR-4117-DEO

**ORDER ACCEPTING REPORT
AND RECOMMENDATION
CONCERNING GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On December 15, 2010, a two count Indictment (Docket No. 3) was returned in the above-referenced case.

Count 1 of the Indictment charges that from about January 2010, and continuing through December 9, 2010, in the Northern District of Iowa and elsewhere, defendant Juan Alamillo and a co-defendant, did knowingly and unlawfully combine, conspire, confederate, and agree with each other and with other persons, known and unknown to the Grand Jury:

(1) to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, and

(2) to distribute 50 grams or more of actual (pure) methamphetamine, a Schedule II controlled substance, within 1,000 feet of the real property comprising a public

playground, that is Dale Street Children's Park and Thompson Park in Sioux City, Iowa.

This was in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A), 846, and 860(a).

Count 2 alleges that on or about December 9, 2010, in the Northern District of Iowa, the defendant, Juan Alamillo, did knowingly and intentionally possess with intent to distribute 50 grams or more of actual (pure) methamphetamine, a Schedule II controlled substance.

This was in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A).

On March 16, 2011, defendant Juan Alamillo appeared before Chief United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count 1 of the Indictment.¹

In the Report and Recommendation (Docket No. 44, 03/16/2011), Chief United States Magistrate Judge Paul A. Zoss recommends that defendant Juan Alamillo's guilty plea be accepted. Waivers of objections to Judge Zoss's Report and Recommendation were filed by each party (Docket Nos. 45 and

¹The minutes from the plea hearing (Docket No. 43) state that Count 2 will be dismissed at the time of sentencing.

51). The Court, therefore, undertakes the necessary review to accept defendant Juan Alamillo's plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

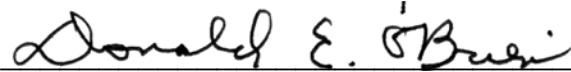
The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

As mentioned, waivers of objections to the Report and Recommendation have been filed, and it appears to the Court upon review of Chief Magistrate Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

IT IS THEREFORE HEREBY ORDERED that this Court accepts Chief Magistrate Judge Zoss's Report and Recommendation (Docket No. 44), and accepts defendant Juan Alamillo's plea of guilty in this case to Count 1 of the Indictment (Docket No. 3).

IT IS SO ORDERED this 1st day of June, 2011.


Donald E. O'Brien
Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa